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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF WASHINGTON

6 JAMES SNYDER,
7 a/k/a James Franklin Snyder,

8 Plaintiff,

9 -vs-

10 JANE DOE, JOHN DOE, JOHN DOE
11 and JOHN DOE,

12 Defendants.

NO. CV-11-5013-CI

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING COMPLAINT

13 Magistrate Judge Imbrogno filed a Report and Recommendation on June 13, 2011,
14 recommending Mr. Snyder's civil rights complaint be dismissed without prejudice under
15 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1). Specifically, Plaintiff failed to identify a
16 Defendant upon whom the complaint could be served; it did not appear Plaintiff fully
17 exhausted his claim he was falsely accused of conduct on January 16, 2011, prior to
18 submitting this action on January 24, 2011, *McKinney v. Carey*, 311 F.3d 1198, 1199 (9th
19 Cir. 2002); his claim for monetary damages for "emotional stress" without a showing of
20 physical injury would not be cognizable under 42 U.S.C. § 1997e(e), *Oliver v. Keller*, 289
21 F.3d 623, 630 (9th Cir. 2002); and there is no constitutionally guaranteed protection from
22 being wrongly accused of conduct. *See Freeman v. Rideout*, 808 F.2d 949, 951 (2nd Cir.
23 1986), *cert. denied*, 485 U.S. 982 (1988).

24 Plaintiff initiated this action while incarcerated at the Benton County Jail. He was
25 then released to a residential address in Newport, Washington (ECF No. 6). He also was
26 apparently incarcerated for a short time at the Pend Oreille Correction Center, but then

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1 returned to the Newport, Washington address. Documents sent on April 6, 2011 and June 13,
2 2011, to the Newport address were not returned. There being no objections, the Court
3 **ADOPTS** the Report and Recommendation. The Complaint (ECF No. 11) is **DISMISSED**
4 **WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted.
5 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

6 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings
7 three or more civil actions or appeals which are dismissed as frivolous or for failure to
8 state a claim will be precluded from bringing any other civil action or appeal *in forma*
9 *pauperis* “unless the prisoner is under imminent danger of serious physical injury.” 28
10 U.S.C. § 1915(g). **Plaintiff is advised to read the new statutory provisions under**
11 **28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the**
12 **three dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to**
13 **file future claims.**

14 **IT IS SO ORDERED.** The District Court Executive is directed to enter this Order,
15 enter judgment, forward copies to Plaintiff at his last known address, and **CLOSE THE**
16 **FILE.** The District Court Executive is further directed to forward a copy of this Order to the
17 Office of the Attorney General of Washington, Criminal Justice Division. The Court certifies
18 any appeal of this dismissal would not be taken in good faith.

19 **DATED** this 13th day of July, 2011.

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22 07-13-11

s/ Wm. Fremming Nielsen

WM. FREMMING NIELSEN
SENIOR UNITED STATES DISTRICT JUDGE